

CITY OF ALBUQUERQUE



LABOR-MANAGEMENT RELATIONS BOARD
Monday, March 30, 2015
600 2nd Street NW, 7th Floor, Albuquerque, NM 87102
HEARING ROOM 1

MEMBERS PRESENT:

Patrick Halter
Susan Chappell
Juan Montoya

OTHERS PRESENT:

Nick Bullock
Melissa Kountz
Kellie Garcia
Samantha Hults
Fred Mowrer
Dwayne Mier

Rocky Gutierrez
Jason Barnette
Jessica Enriquez
John Soliday
Casey Padilla

MINUTES

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

- I. CALL TO ORDER.**
Chairman Patrick Halter called the meeting to order at 9:04 a.m. All members were present.
- II. REVIEW AND APPROVAL OF AGENDA FOR MONDAY, MARCH 30, 2015.**
Chairman Halter made a motion to approve the agenda. Susan Chappell seconded. Motion passed 3-0.
- III. REVIEW AND APPROVAL OF LABOR BOARD MINUTES FOR MARCH 16, 2015.**
Chairman Halter made a motion to approve the minutes for March 16, 2015. Juan Montoya seconded. Motion passed 3-0.
- IV. PUBLIC COMMENTS *Limited to three (3) minutes total time per person.**
Chairman Halter stated that the next Labor Board meeting has been scheduled for April 20, 2015.
- V. RECEIPT, APPROVAL AND SIGNING OF STIPULATED DISMISSALS AND SETTLEMENTS.**
Chairman Halter made a motion to approve a Stipulated Order of Dismissal in LB 15-04. Ms. Chappell seconded. Motion passed 3-0.
- VI. LB 11-26, BOARD REVIEW OF AFSCME'S AND CITY'S BRIEFS. (Rocky Gutierrez, AFSCME)**
Matter was discussed in closed session. See item VIII.

VII. STATUS:

- **LB 13-28 AND LB 14-03 (consolidated). (Rocky Gutierrez, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties reached an agreement that AFSCME agreed to withdrawal LB 13-28 and the City agreed to withdrawal LB 14-03 and filed a Joint Motion to Dismiss and an Order of Dismissal. Chairman Halter made a motion to accept the Order of Dismissal in LB 13-28 and LB 14-03. Juan Montoya seconded. Motion passed 3-0.

VIII. MOTIONS, RESPONSES AND ORDERS:

- **LB 14-14, CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION TO DISMISS. (Casey Padilla, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties have settled the matter and submitted a Joint Motion to Dismiss. Chairman Halter made a motion to approve the Motion to Dismiss. Susan Chappell seconded. Motion passed 3-0.
- **LB 13-04, CITY'S AMENDED ANSWER, POSITION STATEMENT AND MOTION FOR MORE DEFINITE STATEMENT. (Jared Klunczyk, AFSCME)**
Kellie Garcia, Assistant City Attorney appeared on behalf of the City and briefed the case stating that this matter involves an employee at APD 911 call center Randy Torres who was disciplined for a violence in the work place incident on August 24, 2012. She stated that the Union alleges the City violated a procedural time line in the contract alleging the City had not completed their investigation within the 90 day time period. The City filed a Motion to Dismiss with an Amended answer on the basis that the City complied with the contract at all times and completed its investigation within 90 day time period and nothing in the contract says at the close of 90 day period a discipline must be issued. She said that Mr. Torres discipline was just cause.

Rocky Gutierrez appeared on behalf of AFSCME and Randy Torres and stated that there was a Step I and Step II grievance filed and Step III grievance which came to the Labor Board. He stated that this matter should not be dismissed and a merit hearing needs to be scheduled to determine just cause.

Ms. Garcia responded that the prohibited practice complaint filed alleged a procedural matter and did not deny that there was just cause for the discipline.

Mr. Gutierrez responded that the motion for today on the agenda is a Motion for More Definite Statement and not the Motion to Dismiss and the union has submitted a more definite statement. Does not think this case should be dismissed and the employee has due process and matter should be scheduled for a hearing.

Matter was discussed in closed session after LB 12-31 of this item.

- **LB 14-23, ORDER OF DISMISSAL. (Rocky Gutierrez, AFSCME)**
Chairman Halter made a motion to approve the Order of Dismissal. Susan Chappell seconded. Motion passed 3-0.
- **LB 12-31 AFSCME'S RESPONSE TO CITY'S MOTION TO DISMISS. (Rocky Gutierrez, AFSCME)**
Melissa Kountz, Assistant City Attorney appeared on behalf of the City. Rocky Gutierrez appeared on behalf of AFSCME. The parties reached an agreement and submitted an Order of Dismissal. Chairman Halter made a motion to adopt the Order of Dismissal. Susan Chappell seconded. Motion passed 3-0.

Chairman Halter made a motion for the Board to enter into closed executive session to discuss LB 11-26 and LB 13-04. Juan Montoya seconded. Motion passed 3-0.

Closed session concluded. Chairman Halter made a motion for the Board to return to open session. Mr. Montoya seconded. Motion passed 3-0. Chairman Halter made a motion to grant the City's Motion to Dismiss LB 13-04. Susan Chappell seconded. Motion passed 3-0. Chairman Halter made a motion to dismiss LB 11-26. Ms. Chappell seconded. Motion passed 3-0.

IX. MERITS HEARING:

- **LB 11-11, PROHIBITED PRACTICE COMPLAINT AGAINST THE CITY OF ALBUQUERQUE HUMAN RESOURCES DEPARTMENT ON BEHALF OF AFSCME LOCAL 624, BLUE COLLAR EMPLOYEES OF THE CITY OF ALBUQUERQUE SOLID WASTE DEPARTMENT FOR VIOLATING THE COLLECTIVE BARGAINING AGREEMENT BY INITIATING THE LEAD DRIVER CLASIFICATION WITHOUT NEGOTIATING. (Rocky Gutierrez, AFSCME)**

Jason Barnett with German and Associates appeared on behalf of the City and with him John Soliday, Director of Solid Waste Department. Rocky Gutierrez appeared on behalf of AFSCME Council 18 and with him was Casey Padilla, President of Local 624. Mr. Gutierrez stated that in May 2011 the solid waste management department classified the position of B31 He stated that in May 2011 the department created the B31 position and had only discussed it with the union but did not give them any details and that there was changes implemented to the terms and conditions in the collective bargaining agreement. He stated that the Collective Bargaining Agreement had expired in June 2010 but there was a court order of injunction and the City was obligated to follow the agreement. He asked the Board to order the City to sit down with the union and negotiate the terms different in the collective bargaining agreement. Mr. Barnett stated that the Board has already granted the City's Motion for Summary Judgment as it relates to the creation of the position. He stated that the created of the position is within the scope of authority and management rights and it has been the City's past practice. He stated that under section 18 of the collective bargaining agreement the process is laid out and stated that issues should be addressed at department level and that did not happen and asked the Board to dismiss the complaint. Witnesses called to testify were John Soliday, Dwayne David Mier and Casey Padilla. Exhibits entered were union's exhibits A, B, and C.

This matter was continued for April 20, 2015.

X. ADJOURNMENT.

Chairman Halter made a motion to adjourn. Ms. Chappell seconded. Motion passed 3-0.

APPROVED:



PATRICK HALTER, CHAIR
City Labor Board



DATE

cc: Richard J. Berry, Mayor
Trina Gurule, Acting City Clerk